

**House File 2165 - Reprinted**

HOUSE FILE 2165  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HSB 511)

(As Amended and Passed by the House February 9, 2012)

**A BILL FOR**

1 An Act relating to physician orders for scope of treatment.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. LEGISLATIVE FINDINGS. The general assembly  
 2 recognizes the importance of encouraging individuals to discuss  
 3 and make health care decisions before a situation necessitates  
 4 an actual decision. The general assembly also recognizes  
 5 that health care planning is a process, rather than a single  
 6 decision, based upon the individual's values and personal  
 7 health status. Advance directives provide the opportunity for  
 8 an individual to enunciate and document the individual's wishes  
 9 and to identify the person authorized to make decisions for the  
 10 individual if the individual is unable to make decisions. The  
 11 general assembly recognizes that the physician orders for scope  
 12 of treatment form, modeled after the national physician orders  
 13 for life-sustaining treatment paradigm initiative, complements  
 14 advance directives by converting individual wishes contained  
 15 in advance directives, or as otherwise expressed, into medical  
 16 orders that may be recognized and acted upon across medical  
 17 settings, thereby enhancing the ability of medical providers  
 18 to understand and honor patients' wishes. An Iowa physician  
 19 orders for scope of treatment form is intended for individuals  
 20 who are frail and elderly or who have a chronic, critical  
 21 medical condition or a terminal illness.

22     Sec. 2. NEW SECTION. 144D.1 Physician orders for scope of  
 23 treatment.

24     As used in this chapter, unless the context otherwise  
 25 requires:

26     1. "*Advanced registered nurse practitioner*" means an advanced  
 27 registered nurse practitioner licensed pursuant to chapter 152  
 28 or 152E.

29     2. "*Department*" means the department of public health.

30     3. "*Emergency medical care provider*" means emergency medical  
 31 care provider as defined in section 147A.1.

32     4. "*Health care facility*" means health care facility as  
 33 defined in section 135C.1, a hospice program as defined in  
 34 section 135J.1, an elder group home as defined in section  
 35 231B.1, and an assisted living program as defined in section

1 231C.2.

2 5. "*Health care provider*" means an individual, including  
3 an emergency medical care provider and an individual providing  
4 home and community-based services, and including a home  
5 health agency, licensed, certified, or otherwise authorized or  
6 permitted by the law of this state to administer health care  
7 in the ordinary course of business or in the practice of a  
8 profession.

9 6. "*Home health agency*" means home health agency as defined  
10 in 42 C.F.R. pt. 484.

11 7. "*Hospital*" means hospital as defined in section 135B.1.

12 8. "*Legal representative*" means an individual authorized to  
13 execute a POST form on behalf of a patient who is not competent  
14 to do so, in the order of priority set out in section 144A.7,  
15 subsection 1, and guided by the express or implied intentions  
16 of the patient or, if such intentions are unknown, by the  
17 patient's best interests given the patient's overall medical  
18 condition and prognosis.

19 9. "*Patient*" means an individual who is frail and elderly  
20 or who has a chronic, critical medical condition or a terminal  
21 illness and for which a physician orders for scope of treatment  
22 is consistent with the individual's goals of care.

23 10. "*Physician*" means a person licensed to practice medicine  
24 and surgery or osteopathic medicine and surgery in this state.

25 11. "*Physician assistant*" means a person licensed as a  
26 physician assistant under chapter 148C.

27 12. "*Physician orders for scope of treatment form*" or "*POST*  
28 *form*" means a document containing medical orders which may  
29 be relied upon across medical settings that consolidates  
30 and summarizes a patient's preferences for life-sustaining  
31 treatments and interventions and acts as a complement to and  
32 does not supersede any valid advance directive.

33 Sec. 3. NEW SECTION. 144D.2 **Physician orders for scope of**  
34 **treatment (POST) form.**

35 1. The POST form shall be a uniform form based upon the

1 national physician orders for life-sustaining treatment  
2 paradigm form. The form shall have all of the following  
3 characteristics:

4     *a.* The form shall include the patient's name and date of  
5 birth.

6     *b.* The form shall be signed and dated by the patient or the  
7 patient's legal representative.

8     *c.* The form shall be signed and dated by the patient's  
9 physician, advanced registered nurse practitioner, or physician  
10 assistant.

11     *d.* If preparation of the form was facilitated by an  
12 individual other than the patient's physician, advanced  
13 registered nurse practitioner, or physician assistant, the  
14 facilitator shall also sign and date the form.

15     *e.* The form shall include the patient's wishes regarding the  
16 care of the patient, including but not limited to all of the  
17 following:

18         (1) The administration of cardiopulmonary resuscitation.

19         (2) The level of medical interventions in the event of a  
20 medical emergency.

21         (3) The use of medically administered nutrition by tube.

22         (4) The rationale for the orders.

23     *f.* The form shall be easily distinguishable to facilitate  
24 recognition by health care providers, hospitals, and health  
25 care facilities.

26     *g.* An incomplete section on the form shall imply the  
27 patient's wishes for full treatment for the type of treatment  
28 addressed in that section.

29     2. The department shall prescribe the uniform POST form  
30 and shall post the form on the department's website for public  
31 availability.

32     Sec. 4. NEW SECTION. 144D.3 Compliance with POST form.

33     1. A POST form executed in this state or another state  
34 or jurisdiction in compliance with the law of that state or  
35 jurisdiction shall be deemed valid and enforceable in this

1 state to the extent the form is consistent with the laws of  
2 this state, and may be accepted by a health care provider,  
3 hospital, or health care facility.

4 2. A health care provider, hospital, or health care facility  
5 may comply with an executed POST form, notwithstanding that the  
6 physician, advanced registered nurse practitioner, or physician  
7 assistant who signed the POST form does not have admitting  
8 privileges at the hospital or health care facility providing  
9 health care or treatment.

10 3. A POST form may be revoked at any time and in any manner  
11 by which the patient or a patient's legal representative is  
12 able to communicate the patient's intent to revoke, without  
13 regard to the patient's mental or physical condition. A  
14 revocation is only effective as to the health care provider,  
15 hospital, or health care facility upon communication to the  
16 health care provider, hospital, or health care facility by the  
17 patient, the patient's legal representative, or by another to  
18 whom the revocation was communicated.

19 4. In the absence of actual notice of the revocation  
20 of a POST form, a health care provider, hospital, health  
21 care facility, or any other person who complies with a POST  
22 form shall not be subject to civil or criminal liability or  
23 professional disciplinary action for actions taken under  
24 this chapter which are in accordance with reasonable medical  
25 standards. A health care provider, hospital, health care  
26 facility, or other person against whom criminal or civil  
27 liability or professional disciplinary action is asserted  
28 because of conduct in compliance with this chapter may  
29 interpose the restriction on liability in this paragraph as an  
30 absolute defense.

31 5. A health care provider, hospital, or health care facility  
32 that is unwilling to comply with an executed POST form based on  
33 policy, religious beliefs, or moral convictions shall take all  
34 reasonable steps to transfer the patient to another health care  
35 provider, hospital, or health care facility.

1     Sec. 5. NEW SECTION.   **144D.4 General provisions.**

2     1. If an individual is a qualified patient as defined in  
3 section 144A.2, the individual's declaration executed under  
4 chapter 144A shall control health care decision making for the  
5 individual in accordance with chapter 144A. If an individual  
6 has not executed a declaration pursuant to chapter 144A, health  
7 care decision making relating to life-sustaining procedures for  
8 the individual shall be governed by section 144A.7. A POST  
9 form shall not supersede a declaration executed pursuant to  
10 chapter 144A.

11    2. If an individual has executed a durable power of attorney  
12 for health care pursuant to chapter 144B, the individual's  
13 durable power of attorney for health care shall control health  
14 care decision making for the individual in accordance with  
15 chapter 144B. A POST form shall not supersede a durable power  
16 of attorney for health care executed pursuant to chapter 144B.

17    3. If the individual's physician has issued an  
18 out-of-hospital do-not-resuscitate order pursuant to section  
19 144A.7A, the POST form shall not supersede the out-of-hospital  
20 do-not-resuscitate order.

21    4. Death resulting from the withholding or withdrawal of  
22 life-sustaining procedures pursuant to an executed POST form  
23 and in accordance with this chapter does not, for any purpose,  
24 constitute a suicide, homicide, or dependent adult abuse.

25    5. The executing of a POST form does not affect in any  
26 manner the sale, procurement, or issuance of any policy of  
27 life insurance, nor shall it be deemed to modify the terms  
28 of an existing policy of life insurance. A policy of life  
29 insurance is not legally impaired or invalidated in any manner  
30 by the withholding or withdrawal of life-sustaining procedures  
31 pursuant to this chapter notwithstanding any term of the policy  
32 to the contrary.

33    6. A health care provider, hospital, health care facility,  
34 health care service plan, insurer issuing disability insurance,  
35 self-insured employee welfare benefit plan, or nonprofit

1 hospital plan shall not require any person to execute a POST  
2 form as a condition of being insured for, or receiving, health  
3 care services.

4     7. This chapter does not create a presumption concerning  
5 the intention of an individual who has not executed a POST  
6 form with respect to the use, withholding, or withdrawal  
7 of life-sustaining procedures in the event of a terminal  
8 condition.

9     8. This chapter shall not be interpreted to affect the  
10 right of an individual to make decisions regarding use of  
11 life-sustaining procedures as long as the individual is able to  
12 do so, nor to impair or supersede any right or responsibility  
13 that any person has to effect the withholding or withdrawal  
14 of medical care in any lawful manner. In that respect, the  
15 provisions of this chapter are cumulative.

16     9. This chapter shall not be construed to condone,  
17 authorize, or approve mercy killing or euthanasia, or to permit  
18 any affirmative or deliberate act or omission to end life other  
19 than to permit the natural process of dying.